

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GREGORY M. KLOCH,	)	
	)	
Plaintiff,	)	4:05CV3018
	)	
V.	)	
	)	ORDER
RANDY T. KOHL, JOSEPH C. SCOTT	)	
JR., ARTHUR A. WEAVER, KATHRYN	)	
KAHLA, JOHN L. REED, GORDON D.	)	
ADAMS, DAVID A. DRYBURGH,	)	
MICHAEL A. SITORIUS, DEBRA J.	)	
FORD, JON C. BRUNING, RICHARD	)	
NELSON, RICHARD RAYMOND, and	)	
SUCCESSORS OF THE FOREGOING	)	
INDIVIDUALS,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the court on plaintiff Gregory M. Kloch's ("Dr. Kloch") motion for attorneys fees, Filing No. 70; defendant Jon C. Bruning's ("Bruning") motion to stay and amended motion to stay, Filing Nos. 77, 79; plaintiff's objection to the motion to stay, Filing No. 80; and defendant's motion to strike, Filing No. 81.

Defendant has appealed the court's memorandum and order denying defendants' motion for summary judgment and finding Bruning not entitled to qualified immunity. Filing Nos. 78, 66, 72. Defendant also appeals from the court's order denying defendant's motion for a new trial. Filing No. 72. The court previously ordered Magistrate Judge Thalken to progress the case and defendant now seeks to stay further progression pending resolution of his appeal. The court finds that a stay is not warranted in this case and defendant's amended motion to stay is denied. As such, defendant's motion to strike

plaintiff's objection is moot. The court need not address the form or merits of plaintiff's objection, as the court declines to stay the case. Therefore, the objection is noted, but moot.

Finally, plaintiff filed a motion for attorney fees prior to issuance of Magistrate Judge Thalken's order wherein he directed the parties to submit stipulated testimony/facts upon which the remaining issues could be resolved. Filing No. 73. It is the court's assumption that the briefs that will follow the stipulation will include responses regarding attorney fees, and the court will address the attorney fees after the case is submitted for decision. Therefore, unless the court is advised by the parties otherwise, this order will terminate the pending motion for attorneys fees, Filing No. 70.

THEREFORE, IT IS HEREBY ORDERED that

1. Plaintiff's motion for attorney fees, Filing No. 70, is terminated and is to be resolved by the parties in their stipulation and corresponding briefs unless the court is advised otherwise;
2. Defendant's motion to stay and amended motion to stay are denied, Filings Nos. 77, 79; and
3. Plaintiff's objection to the motion to stay and defendant's motion to strike are moot, Filing Nos. 80, 81.

DATED this 7<sup>th</sup> day of May, 2007.

BY THE COURT:

s/Joseph F. Bataillon  
JOSEPH F. BATAILLON  
Chief United States District Judge